

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
4 State Bar No. 196882
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-3465
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2013-362*

11 **SHARON ANN MILLER, AKA SHARON**
12 **ANN MILLIGAN, AKA SHARON ANN**
13 **WOOD**
14 **812 Endicott**
Claremont, CA 91711

A C C U S A T I O N

15 **Registered Nurse License No. 410819**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 31, 1987, the Board of Registered Nursing issued Registered
23 Nurse License Number 410819 to Sharon Ann Miller, aka Sharon Ann Milligan, aka Sharon Ann
24 Wood (Respondent). The Registered Nurse License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.
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28

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

" (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

...

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

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REGULATIONS

7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

8. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare." ...

9. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

10. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

1 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
2 treatment to the client and family and teaches the client and family how to care for the client's
3 health needs.

4 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
5 subordinates and on the preparation and capability needed in the tasks to be delegated, and
6 effectively supervises nursing care being given by subordinates.

7 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
8 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
9 communication with the client and health team members, and modifies the plan as needed.

10 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
11 health care or to change decisions or activities which are against the interests or wishes of the
12 client, and by giving the client the opportunity to make informed decisions about health care
13 before it is provided."

14 **COST RECOVERY**

15 11. Section 125.3 of the Code provides, in pertinent part, that the
16 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
17 have committed a violation or violations of the licensing act to pay a sum not to exceed the
18 reasonable costs of the investigation and enforcement of the case.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct- Gross Negligence)**

21 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) on
22 the grounds of unprofessional conduct, in that Respondent committed acts of gross negligence
23 within the meaning of California Code of Regulations, title 16, sections 1442, 1443 and 1443.5,
24 involving the treatment of Patient M. The circumstances are as described as follows:

25 13. On or about December 1, 2009, Respondent, who was employed as a part-time
26 Clinical Nursing Instructor in the Vocational Nursing Program at Glendale Career College, was
27 on duty at Kindred Hospital in San Gabriel Valley teaching three female students. During her
28 shift, she was required to change a patient's Foley catheter. Respondent entered the room of

1 Patient M.¹ and, with the assistance of her students, inserted a Foley catheter into Patient M. The
2 Spanish speaking Patient M. struggled against them, and repeatedly told them, in Spanish, to stop.
3 Immediately after the procedure was complete, the Respondent learned that she inserted the Foley
4 catheter into the wrong patient. As a result of this treatment, Patient M. was forcibly subjected to
5 an invasive procedure that caused bleeding, humiliation and emotional trauma.

6 14. Respondent's acts constitute an extreme departure from the standard of care which,
7 under similar circumstances, would have ordinarily been exercised by a competent registered
8 nurse in that Respondent:

9 a) failed to follow the established standards of practice used for patient identification
10 by failing to review patient M.'s chart for a physician's order prior to the insertion of the Foley
11 catheter, and

12 b) failed to respect patient M.'s right to refuse treatment.

13
14 **SECOND CAUSE FOR DISCIPLINE**
15 **(Unprofessional Conduct - Incompetence)**

16 15. Respondent is subject to disciplinary action under section 2761, subdivision
17 (a)(1) on the grounds of unprofessional conduct, in that Respondent committed acts of
18 incompetence within the meaning of California Code of Regulations, title 16, sections 1442, 1443
19 and 1443.5, involving the treatment of Patient M. by failing to exercise the degree of learning,
20 skill and experience ordinarily possessed and exercised by a competent registered nurse. The
21 circumstances surrounding these acts are such that Respondent failed to follow the established
22 standards of practice used for patient identification by failing to review patient M.'s chart, where
23 she would have learned that a Spanish language interpreter was required for interaction with
24 patient M. Complainant refers to and by this reference incorporates the allegations set forth
25 above in paragraphs 12 - 14, inclusive, as though set forth fully.

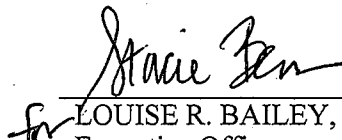
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27 ¹ Initials are used to protect patient confidentiality. The patient's full name is contained
28 in the medical records which will be disclosed in discovery.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 410819, issued to Sharon Ann Miller, aka Sharon Ann Milligan, aka Sharon Ann Wood
2. Ordering Sharon Ann Miller to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: November 2, 2012


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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